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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/772,775

02/05/2004

David Thompson

VALC-237US

2361

26875 7590 03/25/2008  
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EXAMINER

ANTONIENKO, DEBRA L

ART UNIT

PAPER NUMBER

4194

MAIL DATE

DELIVERY MODE

03/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/772,775	<b>Applicant(s)</b> THOMPSON, DAVID	
	<b>Examiner</b> DEBRA ANTONIENKO	<b>Art Unit</b> 4194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/13/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the application filed on February 5, 2004.
2. Claims 1-29 are currently pending.

### ***Priority***

3. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

### ***Information Disclosure Statement***

4. The Information Disclosure Statement (IDS) submitted on June 13, 2005 has been considered by the Examiner.

### ***Claim Objections***

5. Applicant is advised that should Claim 1 be found allowable, Claims 7 and 23 will be objected to under 37 CFR 1.75 as being substantial duplicates thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).
6. Applicant is advised that should Claim 25 be found allowable, Claim 27 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing

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one claim to object to the other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 7, 9, and 20-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. In Claims 1, 7, and 23 the phrase “consisting essentially” renders the limitations vague and indefinite.

10. In Claims 1, 7, 9, 23, and 24 the phrase “compatible” renders the limitation vague and indefinite.

11. In Claims 20-22, the phrase “particularly likely” renders the limitations vague and indefinite.

### ***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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**Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

13. Claims 17, 20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by *Whitmore, Andy; The Corporate Report (Kansas City, MO, US), v15, n6, s1 p46, June 1989: "Downtown Revival."* (hereinafter referred to as Whitmore).

Regarding Claim 17:

Whitmore teaches a method of displaying furniture and accessories for retail sale comprising:

arranging a retail furniture display with furniture groupings decorated and positioned to identify customers of different lifestyles by attracting those customers on the basis of the corresponding lifestyle to different areas of a store (¶¶21-22); and

arranging furniture accessories and other non-furniture products in the store for display by locating products among the different areas in accordance with the marketability of such products to the customers so attracted to the respective areas (¶21).

Regarding Claim 20:

Whitmore teaches the limitations of Claim 17 as described above.

Whitmore further teaches determining the furniture accessories and other non-furniture products that are particularly likely to be marketable to the customers so attracted to the respective areas of the store (¶¶21-22); and

arranging the furniture accessories and other non-furniture products in the store for display by locating products among the different areas in accordance with the determination (¶22).

Regarding Claim 22:

Whitmore teaches the limitations of Claim 20 as described above.

Whitmore further teaches the determining includes selecting one or more persons skilled in an art selected from the group consisting of design, decorating, marketing, and merchandising, and having such person or persons make, based on their knowledge, experience or skill, the determination of what furniture accessories and other non-furniture products are particularly likely to be marketable to the customers so attracted to the respective areas of the store (¶22).

***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

15. Claim 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by *Retail Ideas*, “*Displays are at the Heart of Furniture*”, <http://www.furnituretoday.com/ri/rimerd26.html>, downloaded May 10, 2002 (hereinafter referred to as Retail Ideas).

Regarding Claim 28:

Retail Ideas teaches a method of arranging furniture, comprising the steps of: a) organizing a section of a store with furniture associated with a particular furniture style (¶¶5-6);

b) identifying other furniture and non-furniture accessories interesting to consumers attracted to the particular furniture style; and c) decorating the section with one or more of the identified accessories (¶4 and ¶7).

Regarding Claim 29:

See Claim 28.

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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**Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

17. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitmore in view of *Kelly, Mary Ellen; Discount Store News*, v28, n19, p111(2), October 16, 1989: "A Surprisingly New Style for Sears." (hereinafter referred to as Kelly).

Regarding Claim 18:  
Whitmore teaches the limitations of Claim 17 as described above.

Whitmore does not explicitly disclose so attracting the customers by decorating and furnishing said area of the store such that it is visible from a location remote from said area.

However, Kelly discloses so attracting the customers by decorating and furnishing said area of the store such that it is visible from a location remote from said area (¶16). It would have been obvious to one of ordinary skill in the art at the time of the invention to have displays visible from remote locations in order to attract customers to look at the displays.

Regarding Claim 19:  
Whitmore teaches the limitations of Claim 17 as described above.

Whitmore does not explicitly disclose so attracting the customers by decorating and furnishing said area of the store such that it is visible from an aisle in the store from a location remote from said area.

However, Kelly discloses so attracting the customers by decorating and furnishing said area of the store such that it is visible from an aisle in the store from a location remote from said area (¶16). It would have been obvious to one of ordinary skill in the art at the time of the invention to have displays visible from remote locations in order to attract customers to look at the displays.

18. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitmore in view of *Bonk, Eugene T.; Journal of Small Business Management*, v34, n1, pp71-77,

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*January 1986: "The information revolution and its impact on SME strategy."* (hereinafter referred to as Bonk).

Regarding Claim 21:

Whitmore teaches the limitations of Claim 20 as described above.

Whitmore does not explicitly disclose the determining includes employing computerized marketing data correlation techniques to identify what furniture accessories and other non-furniture products are particularly likely to be marketable to the customers so attracted to the respective areas of the store.

However, Bonk discloses the determining includes employing computerized marketing data correlation techniques to identify what furniture accessories and other non-furniture products are particularly likely to be marketable to the customers so attracted to the respective areas of the store (§10). It would have been obvious to one of ordinary skill in the art at the time of the invention to employ computerized marketing data in order to maximize the marketing efforts.

19. Claims 1, 7, 8, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of *Broderick, J. Raymond; Geyer's Office Dealer*, v154, n11, p64(2), *November 1989: "It doesn't come cheap, so use retail space wisely."* (hereinafter referred to as Broderick) and further in view of Official Notice.

Regarding Claims 1, 7, and 23:

Kelly discloses a store for displaying home furnishings and decorative accessories for sale comprising: a store enclosure (§5);

a display area within the store enclosure which includes a plurality of pods, each of the pods containing home furnishings and decorative accessories available for sale, the home furnishings and decorative accessories of the different pods being identifiable, respectively, with different ones of a plurality of different lifestyles, the home furnishings and decorative accessories of each respective pod including home furnishings and decorative accessories selected from the group consisting essentially of furniture, wall coverings, floor coverings, window coverings, electronics, lighting fixtures, sculpture, mirrors and pictures that are mutually compatible in design and identifiable with the respective one of the different lifestyles (§§14-19); ...

the plurality of pods being visually and physically separated from each other by components selected from the group consisting essentially of aisles, lighting, floor finish, floor color, floor covering, floor elevation, signage and walls (§14).

Kelly does not explicitly disclose a checkout location within the store enclosure ;

an array of intersecting aisles within the display area and providing pedestrian access to, from and among each of the pods and the checkout location, the array including aisles terminating in groupings of furniture compatible with the lifestyles of pods adjacent thereto;



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an entry space communicating and providing pedestrian passage between the outside of the enclosure and the array of aisles of the display area.

However, Broderick does disclose a checkout location within the store enclosure; ...

an array of intersecting aisles within the display area and providing pedestrian access to, from and among each of the pods and the checkout location, the array including aisles terminating in groupings of furniture compatible with the lifestyles of pods adjacent thereto (¶¶3-4). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a checkout location within the store as well as pedestrian access to the checkout location in order to allow customers to pay for their purchases.

Furthermore, Official Notice is taken that an entry space communicating and providing pedestrian passage between the outside of the enclosure and the array of aisles of the display area would have been included. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate an entry space into the store enclosure in order to allow customers to enter the establishment to look at the merchandise.

Regarding Claim 8:  
See Claim 1.

20. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Broderick in view of Official Notice and further in view of *Garet, Barbara; Wood & Wood Products, v98, n5, p39(3), April 1993: Taking the mystery out of furniture manufacturing.* (hereinafter referred to as Garet) and *Gilbert, Les; HFD-The Weekly Home Furnishings Newspaper, v63, n37, p8(3), September 11, 1989: "Merchandising By Video: interactive electronic kiosks: the wave of the future?"* (hereinafter referred to as Gilbert).

Regarding Claim 2:

Garet discloses the entry space includes a first informational display diagrammatically depicting a process of manufacturing furniture from material acquisition through the finishing of furniture products (¶5). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate informational materials into the store in order to educate the customers.

Gilbert discloses a second informational display depicting the facts relating to a retail entity associated with the store (¶¶2-3). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate other informational displays into the store in order to help customers make their purchasing decision.

21. Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Broderick in view of Official Notice and further in view of *Szymanski, Jim; The News Tribune, pD1, May 3, 2000: "Selden's to open midprice outlet."* (hereinafter referred to as Szymanski).

Regarding Claims 3 and 13:

Szymanski discloses a design center location within the store enclosure; the array of intersecting aisles providing pedestrian access to, from and among each of the pods and the design center location (¶10). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a design center into the store as well as for the customers to have access to it in order to help customers make their purchasing decision.

22. Claims 4, 5, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Broderick in view of Official Notice and further in view of *Palmer, Kelly; Springfield Business Journal (Springfield, MO, US), v11, n16, s1, p1, November 5, 1990: "Mulhollan to Open Second Store, Expand Product Line."* (hereinafter referred to as Palmer).

Regarding Claims 4 and 14:

Palmer discloses an office area within the store enclosure; the array of intersecting aisles providing pedestrian access to, from and among each of the pods and the office area (¶5). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate an office area into the store as well as for the customers to have access to it in order to help customers decide any financial obligations.

Regarding Claims 5 and 15:

See Claims 3 and 4, and 13 and 14, respectively.

23. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Broderick in view of Official Notice and further in view of *Engel, Clint;*

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*Furniture Today*, p6, August 24, 1998: "Ikea's big Chicago store to feature three homes." (hereinafter referred to as Engel).

Regarding Claims 6 and 16:

Engel discloses at least one of the pods includes wall partitions internal to the pods dividing the pods physically and visually into a plurality of rooms (¶1). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate pods within pods or in other words rooms within rooms just like a real house in order to help customers make their purchasing decision.

24. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Broderick in view of Official Notice and further in view of *Herlihy, Janet; HFN, The Weekly Newspaper for the Home Furnishing Network*, p28(1), October 26, 1998: "Rugs Gain Ground at Ikea." (hereinafter referred to as Herlihy).

Regarding Claim 9:

Herlihy discloses groupings of furniture compatible with the lifestyles of pods adjacent thereto (¶13). It would have been obvious to one of ordinary skill in the art at the time of the invention to take into consideration neighboring displays in order to present the merchandise in a pleasing fashion.

Kelly further discloses the array including aisles terminating in the groupings (¶16).

Regarding Claim 10:

Kelly further discloses at least some of the groupings of furniture are visible for the length of the aisle that terminates in the respective grouping such that characteristics of a lifestyle can be perceived by a customer throughout the length of the aisle (¶16).

Regarding Claim 11:

See Claims 1 and 2.

Regarding Claim 12:

See Claims 1 and 2.

25. Claims 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over

*Kelly, Mary Ellen; Discount Store News*, v28, n19, p11(2), October 16, 1989: "A Surprisingly New Style for Sears." (hereinafter referred to as Kelly) in view of *Broderick*,

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*J. Raymond; Geyer's Office Dealer, v154, n11, p64(2), November 1989: "It doesn't come cheap, so use retail space wisely."* (hereinafter referred to as Broderick).

Regarding Claim 24:

Kelly discloses a retail furniture store comprising: a plurality of pods, each pod corresponding to a furnished room decorated according to a respective lifestyle (§14-15); ...

a corresponding furniture display located adjacent each set of related pods, each corresponding furniture display selected to be mutually compatible in design with the corresponding set of related pods (§14-15).

Kelly does not explicitly disclose a plurality of aisles segmenting the plurality of pods into a plurality of sets of one or more related pods.

However, Broderick does disclose a plurality of aisles segmenting the plurality of pods into a plurality of sets of one or more related pods (§3). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate aisles among the displays in order for customers to be able to easily move from one display to another.

Regarding Claims 25 and 27:

Kelly and Broderick teach the limitations of Claim 24 as described above.

Broderick further teaches each corresponding furniture display is located at an end of one of the aisles (§3). It would have been obvious to one of ordinary skill in the art at the time of the invention to have corresponding displays at the endcaps of aisles in order to attract customers to the particular aisle.

Regarding Claim 26:

Kelly and Broderick teach the limitations of Claim 24 as described above.

Broderick further teaches a checkout location (§4). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a checkout location within the store in order to allow customers to pay for their purchases.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEBRA ANTONIENKO whose telephone number is (571)270-3601. The examiner can normally be reached on Monday through Thursday, 7:30 AM to 5:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Kyle can be reached on 571-272-6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Debra Antonienko/  
Examiner, Art Unit 4194  
03/18/2008

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